

Decision 06-09-030 September 21, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of IElement Telephone of California, Inc. for a Certificate of Public Convenience and Necessity to Provide Limited Facilities-Based and Resold Local Exchange, IntraLATA and InterLATA Interexchange Telephone Service in all SBC California, Verizon California, Citizens Telephone, and SureWest Telephone local exchange areas.

Application 05-12-016
(Filed December 8, 2005)

O P I N I O N

1. Summary

IElement Telephone of California, Inc. (Applicant) seeks a certificate of public convenience and necessity (CPCN) under Pub. Util. Code § 1001 for authority to provide limited facilities-based and resold local exchange and interexchange telecommunications services. By this decision, we grant the requested authority subject to the terms and conditions set forth below.

2. Background

In prior decisions, we authorized the provision of competitive interexchange services by carriers meeting specified criteria. In addition, we authorized the provision of competitive local exchange service, by carriers meeting specified criteria, within the service territories of Pacific Bell Telephone Company (Pacific), Verizon California Inc. (Verizon), SureWest Telephone

Company (SureWest),¹ and Citizens Telecommunications Company of California, Inc. (Citizens).

Applicant, a Nevada corporation, seeks authority to provide limited facilities-based and resold local exchange services as a competitive local carrier (CLC) within the service territories of Pacific, Verizon, SureWest, and Citizens and limited facilities-based and resold interexchange services as a nondominant interexchange carrier (NDIEC) in all areas of the state in which the Commission has authorized these services.

Applicant's principal place of business is located at Dallas, Texas.

3. Procedural History

Applicant filed this application on December 8, 2005.

On February 10, 2006, the Commission Consumer Protection and Safety Division (CPSD) filed a motion for acceptance of a late-filed protest to the application. Applicant did not oppose this motion. The assigned Administrative Law Judge (ALJ) granted CPSD's motion and permitted the filing of the protest.

CPSD protested the application on the grounds that Applicant had not submitted its own financial statements in support of the application, but relied on a financial guarantee from its parent company, IEelement Corporation, which appears to be insolvent. CPSD's protest further stated that Applicant is a Nevada corporation with a Texas principal place of business, and Applicant's only California location may be a maildrop in the Marina Del Rey area of Los Angeles. CPSD also pointed out that Applicant is the latest in a series of corporations owned by Mr. Ian Zweig, and that one of Mr. Zweig's other corporations,

¹ SureWest Telephone Company was previously known as Roseville Telephone Company.

Integrated Communications Consultants Corporation (ICCC), had filed for a Chapter 11 bankruptcy in the U. S. Bankruptcy Court for the Northern District of Texas, in 2004. In addition, CPSD's protest stated that Applicant's parent company, IElement Inc., has been sued twice in the Superior Court of the State of California in Los Angeles County. CPSD requested both time to conduct discovery and the scheduling of a prehearing conference (PHC).

The assigned ALJ subsequently issued a ruling requiring Applicant to respond to the issues raised in CPSD's protest and setting a PHC for April 24, 2006.

On April 20, 2006, Applicant filed a response to the assigned ALJ's ruling. Applicant's response stated that Applicant had received a financial guarantee from IElement Inc., and that IElement Inc.'s financial records on file with the Securities and Exchange Commission are open for public review and show that the company has the resources to guarantee the financial obligations of Applicant in the amount required for issuance of a CPCN. Applicant also stated that the two cases have been filed against IElement, Inc. in the Los Angeles County Superior Court and both involve alleged commission payments owed by IElement to agents. IElement Inc. believes that neither case has merit, but has settled one of the cases and is vigorously defending against the other litigation. Applicant further explained that although as the President and CEO of ICCC, Mr. Zweig was ultimately responsible for the company's financial operations, he did not manage the day-to-day finances of ICCC. Applicant stated that ICCC had filed a bankruptcy petition under Chapter 11 because of billing disputes with and unreasonable collection practices by incumbent local exchange carriers, and that ICCC's bankruptcy proceedings were successfully concluded in April 2006 after the Bankruptcy Court approved the company's Chapter 11 reorganization plan.

The PHC was held on April 24, 2006. Applicant agreed to provide additional financial information regarding IElement Inc. to CPSD.

On June 15, 2006, Applicant filed a supplement to the application, which included a document from IElement Inc. granting a loan in the amount of \$140,000 to Applicant for the period of 24 months. The loan document is dated May 1, 2006 and is signed by Mr. Zweig as CEO of IElement, Inc. Under the loan terms, the loan is irrevocable, and Applicant is not required to make any principal or interest payments until April 30, 2008. Interest will compound monthly, at the rate of 8% per year. The loan document provides that beginning on April 30, 2008, Applicant must make monthly principal and interest payments in the amount of \$5,000 until the loan is paid in full.

On June 22, 2006, CPSD filed a withdrawal of its protest along with recommended conditions for granting Applicant's requested CPCN (Withdrawal of Protest). In its Withdrawal of Protest, CPSD noted that Applicant's receipt of the \$140,000 loan from IElement Inc. technically satisfies the Commission's financial requirements for issuance of a CPCN to provide limited facilities-based services. However, CPSD referred to sections of an audited financial report for Mailkey Corporation, which merged with IElement Inc. in 2004, as grounds for concern regarding IElement Inc.'s financial stability. The auditor's financial statement reported that it had audited the company's balance sheet as of March 31, 2005 and related statements of operations and cash flow for the three months ending March 31, 2005 and 2004, the years ended December 2003 and 2004 and found that:

...The company [IElement Inc.] has sustained operating losses and capital deficits that raise substantial doubt about its ability to continue as a going concern.

CPSD stated that it had also analyzed IElement Inc.'s financial position and found that its liabilities exceed its current assets. Therefore, according to CPSD,

IElement, Inc. has negative working capital and would not have the funds to cover its liabilities if liquidation of its assets became necessary.

CPSD's Withdrawal of Protest also reiterated the other issues raised in the protest.

In order to address these concerns, CPSD recommended that the Commission impose the following conditions on any CPCN issued to Applicant:

- Applicant must maintain an unencumbered balance of at least \$100,000 in a bank account which has been identified to the Commission, for the benefit of customers who do not receive service or for carriers who contract with Applicant to provide service to Applicant's customers;
- Applicant must inform the Commission within 15 days if the balance in the bank account falls below \$100,000;
- Applicant must inform the Commission within 15 days if Applicant is notified of any legal proceedings against it, or any formal or informal public agency investigation of its operations;
- Applicant must serve an annual report with the Commission Telecommunications Division (TD), stating the number of consumer complaints (if any) received by Applicant in the preceding year, specifically identifying any legal complaints or state investigations initiated against Applicant or IElement Inc. within the last year, and confirming that Applicant still has a balance of \$100,000 in the identified bank account.

Applicant filed no response to CPSD's Withdrawal of Protest. On July 26, 2006, in response to a requested by the assigned ALJ, Applicant filed a second

supplement to the application, which included a bank statement showing that Applicant has received the \$140,000 in loan funds from IElement Inc.

We address the issues raised in CPSD's protest and Withdrawal of Protest below.

4. Financial Qualifications

To be granted a CPCN for authority to provide facilities-based and resold local exchange and/or interexchange services, an applicant must demonstrate that it has a minimum of \$100,000 of cash or cash equivalent to meet the firm's start-up expenses.² An applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers (LECs) and/or interexchange carriers (IECs) in order to provide the proposed service.³ Applicant's receipt of \$140,000 in loan funds from its parent corporation meets the Commission's requirements that Applicant demonstrate that it has sufficient cash to satisfy the financial requirement plus any required deposits.

We agree with CPSD that IElement Inc., Applicant's parent corporation, appears to have major financial problems that may affect its viability. However, since IElement, Inc. has transferred \$140,000 to Applicant, and Applicant is not required to make any loan payments until April 2008, Applicant now independently meets the financial Commission's requirements for issuance of a CPCN authorizing the provision of limited facilities-based and resold services, regardless of the financial stability of its parent company. Although we share CPSD's desire to ensure that Applicant is adequately funded at all times, the

² The financial requirement for CLCs is contained in Decision (D.) 95-12-056, Appendix C. The financial requirement for NDIECs is contained in D.91-10-041.

³ The requirement for CLC applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying LECs and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

purpose of the Commission's financial requirements for issuance of a CPCN is to ensure that new telecommunications providers are able to fund their operations at least during their first year of business in California. Applicant is a newly formed company and has no financial resources other than the loan from its parent company. Since Applicant anticipates being required to pay deposits to other telecommunications carriers in order to operate, our adoption of CPSD's recommendation that Applicant be required to maintain a bank balance of \$100,000 at all times during the year would effectively mean that Applicant cannot use the loan funds for its operating expenses, which contravenes the purpose of the Commission's financial requirements. In addition, this requirement would subject Applicant to more stringent financial requirements than other similarly situated telecommunications providers.

We therefore find that Applicant has met the Commission's financial requirements for issuance of a CPCN authorizing the provision of limited facilities-based and resold services and decline to adopt CPSD's recommendation that Applicant be required to maintain a minimum balance of \$100,000 in its bank account at all times. However, in order to ensure that Applicant is adequately funded to provide service to the public, we will require Applicant to file audited financial statements for the company or financial statements verified under penalty of perjury by a corporate officer, along with its annual report, with the Commission TD each year for the next five years (through 2011).

5. Technical Qualifications

Applicants for NDIEC and CLC authority are required to make a reasonable showing of technical expertise in telecommunications or a related business. Applicant submitted biographical information on its management that demonstrates that it possesses sufficient experience and knowledge to operate as a telecommunications provider.

We note that Mr. Ian Zweig will be the Chief Executive Officer for Applicant. We are concerned that Mr. Zweig has been involved with the management of two companies, ICCC and IElement, Inc., that have faced significant financial problems. However, Applicant has adequately explained the reasons that led up to ICCC's Chapter 11 bankruptcy petition, which has now been resolved. Moreover, our requirement that Applicant file audited financial statements with TD each year for the next five years (through 2011) should ensure that the Commission will be aware if Applicant develops financial problems that threaten its ability to adequately serve the public.

The Commission may also deny a CPCN application in order to protect the public interest if the applicant fails to demonstrate that its management is qualified to operate a telecommunications provider in a manner that complies with applicable laws and adequately serves the public.⁴

Applicant represents that no one associated with or employed by Applicant as an affiliate, officer, director, partner, or owner of more than 10% of Applicant has been sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order. CPSD has produced no evidence to the contrary, or to show any past failure of IElement Inc. to comply with legal or regulatory requirements applicable to telecommunications providers.

Moreover, in view of the frequency of litigation in today's business environment, we do not believe that the case currently pending against IElement Inc. in the Superior Court for Los Angeles County regarding the payment of

⁴ See D.04-05-033.

commissions to agents, in and of itself, suggests that Applicant's management is not fit to operate the company.

We therefore decline to adopt CPSD's recommendation that Applicant include in its annual report to be filed with TD each year a statement of any consumer complaints filed against Applicant, any public agency investigations or proceedings against Applicant, or any litigation filed against Applicant. Although we share CPSD's desire to ensure that telecommunications providers in this state operate in a manner that does not result in consumer complaints, investigations or complaints by regulatory agencies, or litigation, CPSD has presented no evidence to justify imposing a more stringent reporting requirement on Applicant than other similarly situated telecommunications providers.

6. Tariffs

Commission staff reviewed Applicant's draft tariffs for compliance with Commission rules and regulations. Any tariff deficiencies are stated in Appendix B.

7. California Environmental Quality Act (CEQA)

CEQA requires the Commission as the designated lead agency to assess the potential environmental impact of a project in order that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible. Applicant will not be constructing any facilities, other than equipment to be installed in existing buildings or structures, for the purpose of providing interexchange or local exchange services. Therefore, it can be seen with certainty that there is no possibility that granting this application will have an adverse effect upon the environment. Applicant must file for additional authority and submit to any required CEQA review

before it can construct facilities other than equipment to be installed in existing buildings or structures.

8. Conclusion

We conclude that the application conforms to our rules for authority to provide competitive local exchange and interexchange telecommunications services. Accordingly, we shall approve the application subject to the terms and conditions set forth herein.

9. Categorization and Need for Hearings

In Resolution ALJ 176-3165, dated January 12, 2006, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. Although CPSD filed a protest on February 9, 2006, CPSD has now withdrawn its protest and did not request a hearing in this matter. Based on the evidence presented, there is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

10. Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure.

Comments were received from Applicant on September 7, 2006. Applicant supports the decision but asked to be able to submit a financial statement verified by a corporate officer, in lieu of an audited financial statement, because of the relatively high cost of an audit for a small company. We have reviewed Applicant's comments and made changes to the proposed decision as appropriate.

11. Assignment of Proceeding

John A. Bohn is the Assigned Commissioner and Myra J. Prestidge is the assigned ALJ in this proceeding.

Findings of Fact

1. Notice of the application appeared in the Daily Calendar on December 21, 2005.
2. As authorized by the assigned ALJ, CPSD filed a late protest on February 9, 2006, but withdrew the protest on June 22, 2006.
3. CPSD did not request a hearing in this matter.
4. In prior decisions the Commission authorized competition in providing interexchange services for carriers meeting specified criteria.
5. In prior decisions, the Commission authorized competition, by carriers meeting specified criteria, in providing local exchange telecommunications services within the service territories of Pacific, Verizon, SureWest, and Citizens.
6. Applicant has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.
7. Applicant has sufficient additional cash or cash equivalent to cover any deposits that may be required by other telecommunications carriers in order to provide the proposed service.
8. Since Applicant has received \$140,000 in loan funds from its parent company and is not required to make any loan payments until April 2008, Applicant meets Commission requirements for issuance of a CPCN authorizing the provision of limited facilities-based and resold services, regardless of the financial problems of its parent company.
9. Applicant possesses sufficient experience and knowledge to provide telecommunications services.
10. There is no evidence that justifies imposing more stringent financial and reporting requirements on Applicant than other similarly situated

telecommunications providers at this time, other than requiring Applicant to file audited financial statements or financial statements verified under penalty of perjury by a corporate officer, with TD each year to show that the company has sufficient funds to adequately serve the public.

11. As part of its application, Applicant submitted a draft of its initial tariff.

12. Applicant will not be constructing facilities, other than equipment to be installed in existing buildings or structures.

Conclusions of Law

1. Applicant has the financial ability to provide the proposed service.

2. Applicant has sufficient technical expertise to operate as a telecommunications carrier.

3. Public convenience and necessity require that Applicant's competitive local exchange and interexchange services be subject to the terms and conditions set forth herein.

4. Since Applicant will not be constructing any facilities, other than equipment to be installed in existing buildings or structures, it can be seen with certainty that there will be no significant effect on the environment.

5. The application should be granted to the extent set forth below.

6. Applicant, once granted a CPCN, should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

7. Applicant must submit a complete draft of its initial tariff that complies with the requirements established by the Commission and that corrects any deficiencies identified in Appendix B.

8. Requiring Applicant to file audited financial statements, or financial statements verified under penalty of perjury by a corporate officer, along with its annual report, with TD each year for the next five years (through 2011) will help

to ensure that the Commission is aware if Applicant develops financial problems that threaten its ability to adequately serve the public.

9. Because of the public interest in competitive local exchange and interexchange services, the following order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted IElement Telephone of California, Inc. (Applicant) to operate as a limited facilities-based and resale provider of competitive local exchange services, and interexchange services, subject to the terms and conditions set forth below.

2. Applicant is authorized to provide local exchange service in the service territories of Pacific Bell Telephone Company, Verizon California Inc., SureWest Telephone Company, and Citizens Telecommunications Company of California, and may provide interexchange services in all areas of the state in which the Commission has authorized such service.

3. Applicant is authorized to file tariff schedules for the provision of competitive local exchange and interexchange services as submitted in the application, Applicant may not offer services until tariffs are on file. Applicant's initial filing shall be made in accordance with General Order (GO) 96-A, excluding Sections IV, V, and VI. The tariffs shall be effective not less than one day after tariff approval by the Commission's Telecommunications Division. Applicant shall comply with its tariffs.

4. Applicant shall correct the outstanding tariff deficiencies identified in Appendix B before being authorized to begin service.

5. The certificate granted, and the authority to render service under the rates, charges, and rules authorized, will expire if not exercised within 12 months after the effective date of this order.

6. The corporate identification number assigned to Applicant, U-6945, shall be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

7. Applicant shall comply with all applicable rules adopted in the Local Exchange Competition proceeding (Rulemaking 95-04-043/Investigation 95-04-044), the Commission's rules and regulations for nondominant interexchange carriers (NDIECs) set forth in Decision (D.) 93-05-010 and D.90-08-032, as well as all other applicable Commission rules, decisions, GOs, and statutes that pertain to California public utilities, subject to the exemptions granted in this decision.

8. Applicant shall comply with the requirements applicable to competitive local exchange carriers and NDIECs included in Attachment A to this decision.

9. Applicant shall file audited financial reports, or financial statements verified under penalty of perjury by a corporate officer, along with its annual report, with the Commission Telecommunications Division each year.

10. Applicant is not authorized to construct facilities, other than equipment to be installed in existing buildings or structures.

11. Application 05-12-016 is closed.

This order is effective today.

Dated September 21, 2006, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN

A.05-12-016 ALJ/TOM/hl2

RACHELLE B. CHONG
Commissioners

ATTACHMENT A

REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND NONDOMINANT INTEREXCHANGE CARRIERS

1. Applicant shall file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.
2. Applicant is subject to the following fee and surcharges that must be regularly remitted per the instructions in Appendix E to Decision (D.) 00-10-028. The Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is zero.
 - a. The current 1.29% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the Universal Lifeline Telephone Service Trust Administrative Committee Fund (Pub. Util. Code § 879; Resolution T-16966, dated December 1, 2005, effective January 1, 2006);
 - b. The current 0.05% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Relay Service and Communications Devices Fund (Pub. Util. Code § 2881; D.98-12-073 and Resolution T-17044, dated July 20, 2006, effective August 1, 2006);
 - c. The user fee provided in Pub. Util. Code §§ 431-435, which is 0.11% of gross intrastate revenue (Resolution M-4816, dated March 15, 2006, effective April 1, 2006);
 - d. The current 0.21% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost Fund-A (Pub. Util. Code § 739.3; D.96-10-066, pp. 3-4, App. B, Rule 1.C; Resolution T-16963, dated December 1, 2005, effective January 1, 2006);
 - e. The current 2.00% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost

Fund-B (D.96-10-066, p. 191, App. B, Rule 6.F., Resolution T-16964, dated December 1, 2005, effective January 1, 2006);
and

- f. The current 0.13% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Teleconnect Fund (D.96-10-066, p. 88, App. B, Rule 8.G, Resolution T-16888, dated December 1, 2005, effective January 1, 2006).
3. Applicant is a competitive local exchange carrier (CLC). The effectiveness of its future tariffs is subject to the schedules set forth in Appendix C, Section 4.E of D.95-12-056:
4. "E. CLCs shall be subject to the following tariff and contract filing, revision and service pricing standards:
 - (1) Uniform rate reductions for existing tariff services shall become effective on five (5) working days' notice. Customer notification is not required for rate decreases.
 - '(2) Uniform major rate increases for existing tariff services shall become effective on thirty (30) days' notice to the Commission, and shall require bill inserts, or first class mail notice to customers at least 30 days in advance of the pending rate increase.
 - '(3) Uniform minor rate increases, as defined in D.90-11-029, shall become effective on not less than (5) working days' notice to the Commission. Customer notification is not required for such minor rate increases.
 - '(4) Advice letter filings for new services and for all other types of tariff revisions, except changes in text not affecting rates or relocations of text in the tariff schedules, shall become effective on forty (40) days' notice.

- '(5) Advice letter filings revising the text or location of text material which do not result in an increase in any rate or charge shall become effective on not less than five (5) days' notice to the Commission.
- '(6) Contracts shall be subject to GO 96-A rules for NDIECS, except interconnection contracts.
- '(7) CLCs shall file tariffs in accordance with PU Code § 876.'"

4. Applicant is a nondominant interexchange carrier (NDIEC). The effectiveness of its future NDIEC tariffs is subject to the schedules set forth in Ordering Paragraph 5 of D.90-08-032 (37 CPUC2d 130 at 158), as modified by D.91-12-013 (42 CPUC2d 220 at 231) and D.92-06-034 (44 CPUC2d 617 at 618):

5. "All NDIECs are hereby placed on notice that their California tariff filings will be processed in accordance with the following effectiveness schedule:

- 'a. Inclusion of FCC-approved rates for interstate services in California public utilities tariff schedules shall become effective on one (1) day's notice.
- 'b. Uniform rate reductions for existing services shall become effective on five (5) days' notice.
- 'c. Uniform rate increases, except for minor rate increases, for existing services shall become effective on thirty (30) days' notice, and shall require bill inserts, a message on the bill itself, or first class mail notice to customers of the pending increased rates.
- 'd. Uniform minor rate increases, as defined in D.90-11-029, for existing services shall become effective on not less than five (5) working days' notice. Customer notification is not required for such minor rate increases.
- 'e. Advice letter filings for new services and for all other types of tariff revisions, except changes in

text not affecting rates or relocations of text in the tariff schedules, shall become effective on forty (40) days' notice.

- 'f. Advice letter filings merely revising the text or location of text material which do not cause an increase in any rate or charge shall become effective on not less than five (5) days' notice.'"

5. Applicant may deviate from the following provisions of GO 96-A:

(a) paragraph II.C.(1)(b), which requires consecutive sheet numbering and prohibits the reuse of sheet numbers; and (b) paragraph II.C.(4), which requires that "a separate sheet or series of sheets should be used for each rule." Tariff filings incorporating these deviations shall be subject to the approval of the Commission's Telecommunications Division. Tariff filings shall reflect all fees and surcharges to which Applicant is subject, as reflected in 2 above.

6. Applicant shall file a service area map as part of its initial tariff.

7. Prior to initiating service, Applicant shall provide the Commission's Consumer Affairs Branch with the name and phone number of its designated contact person(s) for purposes of resolving consumer complaints. This information shall be updated if the name or telephone number changes, or at least annually.

8. Applicant shall notify the Director of the Telecommunications Division in writing of the date that local exchange service is first rendered to the public, no later than five days after service first begins.

9. Applicant shall notify the Director of the Telecommunications Division in writing of the date interLATA service is first rendered to the public within

five days after service begins, and again within five days after intraLATA service begins.¹

10. Applicant shall keep its books and records in accordance with the Generally Accepted Accounting Principles.

11. In the event Applicant's books and records are required for inspection by the Commission or its staff, it shall either produce such records at the Commission's offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to its office.

12. Applicant shall file an annual report with the Director of the Telecommunications Division, in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment B to this decision.

13. Applicant shall file an affiliate transaction report with the Director of the Telecommunications Division, in compliance with D.93-02-019, on a calendar year basis using the form contained in Attachment C.

14. Applicant shall ensure that its employees comply with the provisions of Public Utilities (Pub. Util.) Code § 2889.5 regarding solicitation of customers.

15. Within 60 days of the effective date of this order, Applicant shall comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Telecommunications Division in writing of its compliance.

16. If Applicant is 90 days or more late in filing an annual report, or in remitting the surcharges and fee listed in 2 above, the Telecommunications

¹ California is divided into ten Local Access and Transport Areas (LATAs), each containing numerous local telephone exchanges. InterLATA describes services, revenues and functions relating to telecommunications originating within one LATA and terminating in another LATA. IntraLATA describes services, revenues and functions relating to telecommunications originating within a single LATA.

Division shall prepare for Commission consideration a resolution that revokes Applicant's CPCN unless it has received written permission from the Telecommunications Division to file or remit late.

17. Applicant is exempt from General Order 96-A, subsections III.G(1) and (2), and Commission Rule of Practice and Procedure 18(b).

18. Applicant is exempt from Pub. Util. Code §§ 816-830.

19. Applicant is exempt from the requirements of Pub. Util. Code § 851 for the transfer or encumbrance of property whenever such transfer or encumbrance serves to secure debt.

20. If Applicant decides to discontinue service or file for bankruptcy, it shall immediately notify the Telecommunications Division's Bankruptcy Coordinator.

21. Applicant shall send a copy of this decision to concerned local permitting agencies not later than 30 days from the date of this order.

(END OF ATTACHMENT A)

ATTACHMENT B

List of deficiencies in tariff filed by IEelement Telephone of California, Inc., to be corrected in its tariff compliance filing:

1. Sheet 54: Remove Rule 12.1.1 from the tariff and state that the CLC shall concur with SBC Limitation of Liability regarding credit for service interruptions. Refer to D.95-12-057.
2. Sheet 102: Include the following in the CLC tariff: "Pursuant to Resolution T-16901, all telecommunications carriers are required to apply CPUC mandated Public Program surcharge rates (excluding a. Universal Lifeline Telephone Service (ULTS) billings; b. charges to other certificated carriers for services that are to be resold; c. coin sent paid telephone calls (coin in box) and debit card calls; d. customer-specific contracts effective before 9/15/94; e. usage charges for coin-operated pay telephones; f. directory advertising; and g. one-way radio paging) and the CPUC Reimbursement Fee rate (excluding a. directory advertising and sales; b. terminal equipment sales; c. inter-utility sales) to intrastate services. For a list of the Public Program surcharges and Reimbursement Fee, and the amounts, please refer to the Pacific Bell (d.b.a. SBC California) tariffs."
3. Sheet 104: Include the following Income Limitation and rates for ULTS:

<u>Household Size</u>	<u>Income Limitation</u>
1-2	\$21,300
3	25,100
4	30,200
Each additional member	5,100

(END OF ATTACHMENT B)

**ATTACHMENT C
ANNUAL REPORT**

An original and two copies shall be filed with the California Public Utilities Commission, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than March 31 of the year following the calendar year for which the annual report is submitted.

Failure to file this information on time may result in a penalty as provided for in §§ 2107 and 2108 of the Public Utilities Code.

Required information:

1. Exact legal name and U # of reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (*e.g.*, corporation, partnership, sole proprietorship, etc.).

If incorporated, specify:

- a. Date of filing articles of incorporation with the Secretary of State.
 - b. State in which incorporated.
6. The number and date of the Commission decision granting the Utility's CPCN.
 7. Date operations were begun.
 8. Description of other business activities in which the utility is engaged.
 9. A list of all affiliated companies and their relationship to the utility.
State if affiliate is:
 - a. Regulated public utility.
 - b. Publicly held corporation.

10. Balance sheet as of December 31st of the year for which information is submitted.
11. Income statement for California operations for the calendar year for which information is submitted.

For answers to any questions concerning this report, call (415) 703-2883.

(END OF ATTACHMENT C)

ATTACHMENT D
CALENDAR YEAR AFFILIATE TRANSACTION REPORT

1. Each utility shall list and provide the following information for each affiliated entity and regulated subsidiary that the utility had during the period covered by the annual Affiliate Transaction report.

- Form of organization (*e.g.*, corporation, partnership, joint venture, strategic alliance, etc.);
- Brief description of business activities engaged in;
- Relationship to the utility (*e.g.*, controlling corporation, subsidiary, regulated subsidiary, affiliate);
- Ownership of the utility (including type and percent ownership);
- Voting rights held by the utility and percent;
- Corporate officers.

2. The utility shall prepare and submit a corporate organization chart showing any and all corporate relationships between the utility and its affiliated entities and regulated subsidiaries in #1 above. The chart should have the controlling corporation (if any) at the top of the chart; the utility and any subsidiaries and/or affiliates of the controlling corporation in the middle levels of the chart and all secondary subsidiaries and affiliates (*e.g.*, a subsidiary that in turn is owned by another subsidiary and/or affiliate) in the lower levels. Any regulated subsidiary should be clearly noted.

3. For a utility that has individuals who are classified as “controlling corporations” of the competitive utility, the utility must only report under the requirements of #1 and #2 above any affiliated entity that either a) is a public utility or b) transacts any business with the utility filing the annual report excluding the provision of tariffed services.

4. Each annual report must be signed by a corporate officer of the utility stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

5. Any required material that a utility is unable to provide must be reasonably described and the reasons the data cannot be obtained, as well as the efforts expended to obtain the information, must be set forth in the utility's annual Affiliate Transaction Report and verified in accordance with Section I-F of Decision 93-02-019.

6. Utilities that do not have affiliated entities must file, in lieu of the annual transaction report, an annual statement to the commission stating that the utility had no affiliated entities during the report period. This statement must be signed by a corporate officer of the utility, stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

(END OF ATTACHMENT D)